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SUMMARY RECORD OF THE 1109th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 31 October 1991, at 3 p.m.

Chairman: Mr. POCAR

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The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

General comment on article 7 of the Covenant (continued)

1. The CHAIRMAN recalled that, at its 1097th meeting, the Committee had adopted amendments to paragraphs 12-14 of the revised draft general comment on article 7 of the Covenant. He therefore proposed that the Committee should examine the full text of the revised draft general comment on article 7 of the Covenant contained in documents CCPR/C/43/CRP.1 and M/CCPR/91/42 paragraph by paragraph to check they were consistent.

Paragraph 1

2. The CHAIRMAN said that, if there was no objection, he would take it that, the Committee was ready to adopt paragraph 1 of document CCPR/C/43/CRP.1.

3. Paragraph 1 was adopted.

Paragraph 2

4. Mrs. HIGGINS said that she had intended to put forward an amendment to the paragraph to make it clear that article 7 had to be read in conjunction with article 2 of the Covenant, but she noted that paragraph 13 had already been revised to make that point.

5. Ms. CHANET observed that, as a whole, the text before the Committee had become very difficult to read and ought to be simplified.

6. Paragraph 2 was adopted.

Paragraph 3

7. Mr. EL SHAFEI suggested replacing "recalls" in the first sentence with a stronger term. He also proposed that the second sentence should read: "The Committee likewise believes that no justification or extenuating circumstances may be invoked to derogate from article 7 for any reasons including those based on an order from a superior officer or public authority."

8. The CHAIRMAN proposed that the first sentence should begin "The Committee stresses ...".

9. Mr. PRADO VALLEJO said he would prefer "reaffirms".

10. Mrs. HIGGINS said that she could endorse the amendment to the second sentence suggested by Mr. El Shafei provided that the word "believes" was replaced by "observes".

11. Mr. WENNERGREN proposed that the words "by the State party" should be inserted in the second sentence after "may be invoked" to take account of cases where individuals had acted on the orders of their superior officers and where the the State party could be held responsible.

12. Mrs. HIGGINS said that the Committee should not reopen the discussion it had already had on the question of the responsibility of States and individuals.

13. Mr. MYULLERSON agreed with Mrs. Higgins. Replying to Mr. Wennergren, he stated that in all cases the State party incurred responsibility under the Covenant, whether or not it had given the order to commit prohibited acts. But, in the paragraph under review, it was the responsibility of the person who gave the order or tolerated acts prohibited by article 7 which was at issue.

14. Mr. PRADO VALLEJO agreed with Mr. El Shafei that it was necessary to strengthen the wording of the paragraph to cover not only cases of persons who committed prohibited acts under orders from a superior officer or public authority, but also cases where persons tolerated such acts. The latter was a more frequent occurrence than imagined and had recently arisen in Ecuador, his country, where children had been tortured without the authorities intervening.

15. The CHAIRMAN recalled that the concept of tolerating prohibited acts had been included in the text of paragraph 12 as amended at the 1097th meeting. Furthermore, the expression "no justification ... for any reasons", proposed by Mr. El Shafei, covered every eventuality.

16. Mr. HERNDL suggested that Mr. Wennergren's misgivings might be allayed by referring in the first sentence to acts contrary to the provisions of article 7 or in violation of that article rather than to a "derogation", because States parties derogated from the Covenant, whilst individuals violated its provisions. That would make the text more comprehensible.

17. Mrs. HIGGINS said that she would prefer to retain "derogation" in the first sentence but revise the amendment to the second sentence proposed by Mr. El Shafei to read "to excuse a violation of article 7".

18. Mr. WENNERGREN said he well understood of Mr. Prado Vallejo's concern but wondered whether it was, strictly speaking, possible to consider leaving the light on all night in a detainee's cell, for example, as an act of torture.

19. Mrs. HIGGINS said there could be no question of proclaiming some kinds of inhuman treatment acceptable. Article 7 of the Covenant prohibited all forms of cruel, inhuman or degrading treatment or punishment.

20. Mr. LALLAH recalled that the question had already been discussed at length by the Committee, which had considered it unnecessary to make a distinction between ill-treatment based on the degree of cruelty involved and that all such acts were prohibited by the Covenant regardless of the origins of the order to carry them out.

21. Mr. AGUILAR URBINA concurred with Mrs. Higgins and Mr. Lallah, in believing that the prohibition provided for in article 7 was absolute. It remained to be seen if the Committee preferred to accept article 7 as it stood, or simply to disregard it.

22. Mr. DIMITRIJEVIC said that it might be desirable for the Committee to return to the issue when it examined the proposed text for paragraph 12. It seemed to him, however, that if any distinction was to be made between different kinds of treatment it should be in terms of penalties, not of principles. In that context, he regretted that under paragraph 12, States parties were asked simply to indicate, when presenting their reports, the provisions of their criminal law which penalized torture and cruel, inhuman and degrading treatment or punishment, without any mention being made of the applicable disciplinary sanctions. In any event, there were no grounds for the Committee, at the beginning of its draft comment, to distinguish between different categories of acts or treatment prohibited under article 7.

23. With regard to the wording of the first sentence, he understood Mr. Herndl's concern that non-specialists might find it somewhat difficult to read. However, to avoid the negative phrase "no derogation from the provisions of article 7 is allowed" he proposed that it should read "the provisions of article 7 must remain in force".

24. Mr. MYULLERSON said it seemed to him that in actual fact, there were two ideas contained in paragraph 3. The first sentence pointed out that the State party could not derogate from the provisions of article 7 even in the event of a public emergency. The thrust of the second sentence was that, public emergency or not, no justification or extenuating circumstances could be invoked on the basis of an order from a superior officer or public authority. It might be better to separate the two sentences to avoid confusion by implying that the order of a superior officer could only be invoked as justification for acts prohibited under article 7 in the event of a public emergency.

25. Mrs. HIGGINS agreed with Mr. Dimitrijevic's proposal and believed that it would be even better to add the phrase suggested to the end of the first sentence, which would then read: "... no derogation from the provisions of article 7 is authorized and its provisions must remain in force".

26. The proposal was accepted.

27. Mr. LALLAH said he understood Mr. Myullerson's concern but believed that the point was met in paragraph 2 of the general comment, the second sentence of which concerned the duty of States to afford protection against acts prohibited by article 7, "whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity". Paragraph 3 covered the acts of States or their agents and emphasized that, even in an emergency, article 7 was non-derogable.

28. Ms. CHANET emphasized that the amendment suggested by Mr. Dimitrijevic, precluded any ambiguity or incoherence due to the fact that the subject of the

first sentence was a State and that of the second sentence an individual, in so far as the subject was clear. Paragraph 2 should remain as it was, with the amendments made orally.

29. The CHAIRMAN said he was also prepared to accept the text as it stood, but understood Mr. Myullerson's concern. The only way to dispel any ambiguity would be to insert a sentence in the same paragraph pointing out that no restrictions were possible. In that way, derogations and restrictions would be covered at the same time.

30. Mrs. HIGGINS said she was in favour of the proposal but believed that the sentence in question ought to appear at the very beginning of the paragraph and might read: "The text of article 7 allows of no limitation".

31. The proposal was accepted.

32. Mr. MYULLERSON stated that his reservations were not due to the fact that the two sentences had different subjects. The amendments did indeed improve the text but the problem remained. It was possible that the reader would think that the prohibition, in the second sentence, on invoking the order of a superior officer was valid only in an emergency, which was not what the Committee meant.

33. Mr. ANDO and Mrs. HIGGINS stated that they understood Mr. Myullerson's concern but believed that the first sentence which had been added to paragraph 3 clearly conveyed the message the Committee wished to put across.

34. Mr. DIMITRIJEVIC said that omitting the expression "Moreover" at the beginning of the second sentence would suffice to eliminate any correlation between the two sentences and dispel the danger of the second sentence being interpreted as relating only to emergencies.

35. The amendment was accepted.

36. Paragraph 3, as orally amended, was adopted.

Paragraph 4

37. Mr. DIMITRIJEVIC wondered whether it was necessary for the Committee to admit, as it did in the first sentence of paragraph 4, that it was not in a position to define the concepts covered by article 7, especially as in paragraph 5 it nevertheless attempted to draw up a list of prohibited acts. It would be better to omit paragraph 4 and move directly to paragraph 5.

38. Mrs. HIGGINS said that, as she saw it, the Committee was not acknowledging any inability to define the acts prohibited by article 7. Paragraph 4 meant that the prohibition did not vary according to the type of act prohibited by article 7, whether inhuman or degrading treatment or torture.

39. Mr. ANDO stated that, by inserting paragraph 4, the Working Group had wanted to follow as closely as possible the earlier general comment on article 7 (CCPR/C/21/Rev.1), paragraph 2 of which said that "... the scope of protection required goes far beyond torture as normally understood. It may

not be necessary to draw sharp distinctions between the various prohibited forms of treatment or punishment ...". On the substance, he agreed with Mrs. Higgins.

40. Mr. EL SHAFEI endorsed the comment made by Mr. Dimitrijevic. On the one hand, the Committee said that the Covenant did not define the terms used in article 7 and then, on the other hand, attempted to provide a definition itself. It might be better to omit any reference to the absence of a definition or of a list of prohibited acts, and retain the idea of different prohibited forms of treatment or punishment, but include it in paragraph 5.

41. Ms. CHANET objected that if the Committee omitted paragraph 4, there would be speculation as to why, for two reasons: firstly, because the idea contained in it appeared in the earlier general comment, and, secondly, because the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment gave a definition of prohibited acts. Consequently, it would be deduced that there was a specific reason behind the omission, and that could be misinterpreted.

42. The CHAIRMAN said he took it that the Committee preferred to retain paragraph 4.

43. Paragraph 4 was adopted.

Paragraph 5

44. Ms. CHANET said that she would like to add "inter alia" to the third sentence of paragraph 5, which would then read: "it is appropriate to emphasize in this regard that article 7 protects, inter alia, children, pupils ...". The list was not exhaustive.

45. The proposal was accepted.

46. Mrs. HIGGINS, referring to the second sentence of paragraph 5, said that the verb "should" ought to be replaced by "must" in the English version. Moreover, she pointed out that paragraph 2 of the earlier general comment spoke of "excessive" chastisement, but that the adjective had disappeared in the draft under consideration. She had no objection to its omission, but would like to be assured that that had been done deliberately.

47. Moreover, she recalled that the Committee had deliberated at length over the position it should adopt with regard to the death penalty. It was opposed to capital punishment but the Covenant did not prohibit the death penalty. It might be useful to insert, before the final sentence in paragraph 5, a sentence pointing out that the Committee was convinced that the abolition of the death penalty was desirable and that every effort should be made to that end. Obviously it would be necessary to amend the beginning of the last sentence to show that, when the death penalty was applied, it had to be carried out humanely.

48. Mr. PRADO VALLEJO supported Mrs. Higgins' idea, especially as he had been about to make a proposal along similar lines.

49. Ms. CHANET also supported the suggestion. The Committee might also refer to the Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at the abolition of the death penalty, encouraging States to accede to it.

50. Mr. ANDO said he understood the concern of the other members of the Committee but believed that a general comment had to be as objective as possible. Perhaps it would be better to draw the attention of States parties to the Second Optional Protocol rather than saying that the abolition of the death sentence was desirable.

51. Mr. DIMITRIJEVIC said he was more in favour of Mrs. Higgins' proposal since it reflected a general opinion on the abolition of the death penalty. Obviously, the Committee had to mention that it thought that the abolition of the death penalty was desirable before recognizing that, unfortunately, a convicted prisoner could be executed under the Covenant. The Second Optional Protocol was a separate instrument which was not binding on all States that reported to the Committee. The latter had always avoided reference to other instruments.

52. He pointed out, moreover, that article 7 covered degrading treatment or punishment, and wondered whether humiliation was automatically included in mental suffering or whether it was necessary to make specific reference to it.

53. The CHAIRMAN, returning to the question of capital punishment, referred the Committee to the general comment on article 6 (CCPR/C/21/Rev.1), which was very strongly worded. Perhaps the Committee could recall that general comment rather than referring to the Second Optional Protocol.

54. Mr. LALLAH said he was in full agreement with the Chairman. He read out paragraph 6 of general comment 6 [16] on article 6 (CCPR/C/21/Rev.1), in which the Committee stated that, while States parties were not obliged to abolish the death penalty totally, they were obliged to limit its application to the most serious crimes, and that article 6 of the Covenant referred generally to abolition in terms which strongly suggested that it was desirable. He believed that the text to be adopted for paragraph 5 of the new general comment on article 7 should be no less firm on the question of the death penalty.

55. Mr. PRADO VALLEJO said that he would like paragraph 5 to be expanded slightly in order to point out that, over the years, the Committee had noted that the total and prolonged isolation of prisoners was practised in some countries, in Latin America for example, and that it constituted a form of inhuman treatment. It would be appropriate to ensure that that kind of violation of article 7 was included in the paragraph.

56. He further pointed out that in the Spanish version, the final sentence in paragraph 5 related to protection against medical or scientific experimentation whilst, in the English and French versions, the same sentence quite rightly appeared in paragraph 6. The Spanish text should be brought into line with the others.

57. Mrs. HIGGINS stated that paragraph 5 ought to reflect the unequivocal opinion of the Committee concerning the death penalty and at the same time deal with article 7 of the Covenant, not article 6. To that end, it might be advisable to reflect in paragraph 5 the basic thrust of general comment 6 [16] on article 6 (CCPR/C/21/Rev.1), which would also help to meet Mr. Ando's legitimate concerns regarding objectivity. She thus proposed inserting, immediately before the final sentence of the paragraph, a sentence which would read: "As the Committee has stated in its general comment 6 [16], article 6 refers generally to abolition of the death penalty in terms which strongly suggest that abolition is desirable." She proposed inserting in the final sentence the words "for the most serious crimes" after the expression "when, moreover, the death penalty is applied".

58. Mrs. Higgins' proposal was accepted.

59. Mrs. HIGGINS agreed with Mr. Dimitrijevic that humiliation amounted to suffering and therefore suggested referring to "deep humiliation" after "mental suffering". She added that the adjective "deep" was necessary in that minor humiliation was not in itself degrading treatment since it could be encountered every day without a person necessarily being the victim of a violation of the Covenant.

60. She recalled, furthermore, that the term "excessive" in paragraph 2 of the earlier general comment (CCPR/C/21/Rev.1) did not appear in the revised draft being discussed by the Committee (CCPR/C/43/CRP.1). It was important to specify that it was excessive chastisement was that prohibited under article 7, since school punishments, of whatever nature, could not be considered a violation of the provisions of the article. She therefore proposed to insert the term "excessive" before "chastisement".

61. Mrs. Higgins' proposal was accepted.

62. The CHAIRMAN suggested returning to the matter of prolonged isolation, raised by Mr. Prado Vallejo, in the framework of paragraph 10 which dealt with detention.

63. Paragraph 5, as orally amended, was adopted.

Paragraph 6

64. Ms. CHANET proposed deleting the end of the paragraph beginning with the words "The Committee notes ...", and replacing it with: "The Committee also observes that special protection in regard to such experiments is necessary in the case of persons not capable of giving their valid consent, in particular, those under any form of detention or imprisonment. Such persons must not be subjected to any medical or scientific experimentation which may be detrimental to their health."

65. Ms. Chanet's proposal was accepted.

66. Paragraph 6, as orally amended, was adopted.

Paragraph 7

67. Mrs. HIGGINS pointed out that, once again, an important sentence found in the earlier general comment (CCPR/C/21/Rev.1) did not appear in the revised draft (CCPR/C/43/CRP.1). The sentence read: "The Committee notes that it is not sufficient for the implementation of this article to prohibit such treatment or punishment or to make it a crime." She proposed inserting the sentence at the beginning of paragraph 7.

68. Mrs. Higgins' proposal was accepted.

69. Paragraph 7, as orally amended, was adopted.

Paragraph 8

70. Mrs. HIGGINS said that, in the first sentence, the Committee ought to state more categorically that States parties "must" not rather than "should" not expose individuals to the danger of torture.

71. Mrs. Higgins' proposal was accepted.

72. Paragraph 8, as orally amended, was adopted.

Paragraph 9

73. Mrs. HIGGINS noted that the second sentence stated that the Committee would like to know whether law enforcement personnel, medical personnel, police officers, etc., received appropriate instruction and training. In her opinion, it would be advisable to give a clear indication that the Committee considered that all such persons had to receive appropriate instruction and training. Moreover, the Committee should request information on the content and nature of the measures taken by States parties to that effect.

74. Mr. PRADO VALLEJO endorsed the statement made by Mrs. Higgins. In the second sentence, he would like to include in the list of those who ought to receive training, persons responsible for carrying out investigations to establish the facts. They were precisely the ones who were usually responsible for violating the human rights of persons arrested or detained. They were, on occasion, nothing more than torturers, and it would be appropriate to include them in the list.

75. Mr. ANDO shared Mr. Prado Vallejo's concern but pointed out that the matter was covered by paragraph 10.

76. He agreed with Mrs. Higgins that the second sentence should be firmer. The Committee ought to request States parties to provide information on instruction and training given to the personnel concerned. He believed that States parties had an obligation to provide such personnel with appropriate instruction and training.

77. Mr. LALLAH agreed with Mr. Ando that the second sentence ought to be more strongly worded. In his view, it was important for the Committee to be informed of the exact measures taken by States parties to ensure that

appropriate instruction and training were provided, particularly with regard to the prohibition set out in article 7. It would therefore be appropriate to rephrase the second sentence with that in mind.

78. Mrs. HIGGINS said that, thanks to the suggestions from the other members, she was in a position to propose two sentences which would replace the second sentence of the paragraph and would read: "Law enforcement personnel, medical personnel, police officers and any other persons involved in the custody or treatment of any individual subjected to any form of arrest, detention or imprisonment must receive appropriate instruction and training. States parties should inform the Committee of the instruction and training given and the way in which the prohibition of article 7 forms an integral part of the operational rules and ethical standards to be followed by such persons."

79. Mrs. Higgins' proposal was accepted.

80. Paragraph 9, as orally amended, was adopted.

Paragraph 10

81. Mrs. HIGGINS said that the "register" mentioned in the third sentence should not only be available to persons concerned but also accessible to them.

82. Mr. PRADO VALLEJO pointed out that the measures referred to in the first sentence were designed to protect all individuals and not just particularly vulnerable persons. It would therefore be appropriate to replace the expression "particularly vulnerable persons" by "individuals, including particularly vulnerable persons".

83. With regard to the third sentence, he thought that it was necessary to state more clearly that incommunicado detention was prohibited under the Covenant. He recalled that the Committee had recently had occasion to look into the question of secret places of detention in Morocco and that it was necessary to ensure that there was no ambiguity on that point. It should be stated that places of detention had to be officially and publicly recognized as such.

84. Mr. LALLAH questioned the meaning of the term "minimal protection" used in the penultimate sentence. The word "minimal" was not clear and could possibly be replaced by "minimum", or omitted. In any case, he proposed that the sentence should be revised.

85. Mrs. HIGGINS said she understood Mr. Prado Vallejo's concern over the third sentence and believed that his misgivings could be dispelled by stating clearly that the register had to be public.

86. Mr. HERNDL opposed Mrs. Higgins' suggestion. The important thing was that the register should be both available and accessible to the parties concerned, which would include non-governmental organizations dealing with the case of a particular prisoner, etc. He thus hoped that the wording chosen by the Committee would request that the register be available and accessible to those concerned.

87. Mr. PRADO VALLEJO said that, for his part, he found Mrs. Higgins' idea quite apposite in so far as it helped stress the public nature of prisoners' circumstances, as opposed to the secrecy sometimes surrounding detention. It was particularly important to condemn the existence of secret places of detention.

88. The CHAIRMAN pointed out that the matter causing concern to Mr. Prado Vallejo had been dealt with earlier in the same sentence, where it was stated that detainees should be held in places officially recognized as places of detention.

89. Mrs. HIGGINS said she had the feeling that the Committee was discussing two different points which, moreover, should surely be the subject of two separate sentences. Firstly, information relating to detention had to be both public and accessible, and there therefore had to be registers which were available and accessible to those concerned. Secondly, it was essential to provide guarantees ensuring that relatives and friends could be informed of detention. She therefore proposed that the third sentence should be reworded to state that the register should be public and that information should be promptly made available to those concerned, including relatives and friends.

90. Mr. LALLAH agreed with the Chairman that the first part of the third sentence met Mr. Prado Vallejo's concern. However, the question of the registers was unclear. He wondered what would happen if there were 10 places of detention in a State party. Would that mean that 10 registers had to be kept and that the families thus had to go from one prison to another to try and find out where their relative was being held? He had personally witnessed that kind of situation in 1982/1983, when he had been dealing with the cases of Chilean prisoners. He therefore stressed the practical problem posed by registers. The Committee had to state clearly what measures it was asking States parties to take. He wondered whether a central register would be kept covering all places of detention in the country and containing the names of all detainees and their whereabouts.

91. Mr. HERNDL said he did not agree with Mrs. Higgins' proposal to state that information should be promptly made available to those concerned, since that would oblige the State to take active steps to inform relatives and friends. In his opinion, the Committee should merely say that the register must be available and accessible to those concerned.

92. Returning to Mr. Lallah's idea, it might be sensible to request that a single central register be drawn up which would enable families promptly to obtain information.

93. Mr. LALLAH considered that States parties, when they deprived individuals of their liberty, were duty-bound to inform the families of the detention. That constituted a kind of "active" duty. In his opinion, the Committee ought to emphasize two points: firstly, prisoners must be kept at officially recognized places of detention and, secondly, a register must be available and accessible to those concerned. The Committee could, however, refrain from requesting that a central register be kept, for while such a measure was feasible in most developed countries, it would be difficult to apply in many

countries where there was little or no computerization. He pointed out that in all countries, in theory, the prison administration at each place of detention was supposed to keep a register.

94. Ms. CHANET said she seemed to recollect that the question had already been discussed by the Committee at the previous session. Following a lengthy discussion during which particular attention had been paid to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which provided maximum guarantees for prisoners, the text of paragraph 10 had been amended and adopted. The Secretariat might perhaps assist the Committee by recalling the major points of that discussion.

95. Mr. ANDO said he was not convinced that it was necessary to demand that States parties keep centralized registers, which was not necessarily within the means of all countries. Furthermore, the main subject of paragraph 10 was measures to be taken to prevent torture and ill-treatment, and the question of registers should not be included. He also thought that it was not necessary to use the term "minimal" before the word "protection" in the penultimate sentence of the paragraph.

96. Mr. LALLAH suggested that the Committee should abandon the idea of "centralized" registers and merely state that registers ought to be available to those concerned. He had no objection to maintaining the expression "as well as for the names of persons responsible for their detention", but he pointed out that there inevitably had to be persons responsible in officially recognized places of detention.

97. The CHAIRMAN proposed the phrase "in a register readily available to those concerned".

98. Mrs. HIGGINS wondered whether a distinction should be made between the two concepts of "incommunicado detention" and "total isolation" referred to at the end of the paragraph.

99. Mr. DIMITRIJEVIC said that, as he saw it, the distinction between the two concepts lay in the fact that incommunicado detention exposed the detainee to the risks of torture and ill-treatment, while total isolation was considered by the Committee as already constituting a form of mental torture. Consequently, the two concepts should be maintained since the first referred to a danger which called for preventive measures and the second was linked to the act of torture itself. Furthermore, the Committee now spoke of the concept of total isolation rather than solitary confinement to which it had referred in its initial draft general comment, since in solitary confinement, the prisoner could have access to newspapers, television or radio and was therefore not totally isolated. In that respect, to emphasize the gravity of the act, the Committee could replace "may amount ... to acts prohibited by article 7" by "amounts ... to acts prohibited by article 7".

100. Ms. CHANET fully agreed with Mr. Dimitrijevic. The two concepts set forth were totally different, which was, moreover, why they had been dissociated in the text.

101. The CHAIRMAN noted that the idea that solitary confinement could be contrary to article 7, set out in the first version of the general comment, had not been incorporated in the new proposed text.

102. Mrs. HIGGINS considered that it was important to make a distinction between the three concepts which had been mentioned. She believed that prolonged solitary confinement, which was a more general concept than that of total isolation, was indeed a form of mental torture and she therefore suggested that the final sentence of paragraph 10 should be amended and inserted in paragraph 5, which addressed the issue more specifically.

103. The CHAIRMAN said he fully approved Mrs. Higgins' proposal. The sentence would read: "The Committee notes that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7" and would be inserted after the third sentence in paragraph 5.

104. Paragraph 10, as orally amended, was adopted.

Paragraph 11

105. Mr. MYULLERSON said that he would like to avoid expressions such as "The Committee notes" or "In the Committee's opinion" and use stronger language to remind States parties of their obligations.

106. Mrs. HIGGINS suggested that Mr. Myullerson's concern might be met by omitting "In the Committee's opinion" and beginning the paragraph with "It is important for the discouragement of violations under article 7 that the law must prohibit ...".

107. Ms. CHANET proposed replacing the term "incriminatory statements" by the words "statements and confessions" in order to take account of depositions which might have been obtained under torture.

108. Mr. AGUILAR URBINA and Mr. PRADO VALLEJO supported the proposals made by Mrs. Higgins and Ms. Chanet.

109. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt the proposed amendments.

110. It was so decided.

111. Paragraph 11, as orally amended, was adopted.

Paragraphs 12-14

112. The CHAIRMAN drew attention to the note by the Secretariat (M/CCPR/91/42) containing the text of paragraphs 12-14 as amended at the Committee's 1097th meeting. He invited the Committee to adopt new paragraphs 12-14.

113. Mr. WENNERGREN requested that the following sentence be added to the end of paragraph 12: "Consequently, those who have refused to obey orders to

commit prohibited acts must not be punished or subjected to any adverse treatment." Such persons should enjoy a measure of protection and it was logical for them not to be punished.

114. Mr. EL SHAFEI said he was hesitant to approve Mr. Wennergren's proposal since he did not want the Committee to set a precedent and the subject of the proposal was being raised for the first time.

115. Mr. MYULLERSON supported Mr. Wennergren's proposal. He recalled that similar provisions were found in the Code of Conduct for Law Enforcement Officials and that, therefore, no new element was being introduced into international law.

116. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt Mr. Wennergren's proposal.

117. It was so decided.

118. Paragraphs 12-14, as orally amended, were adopted.

119. The revised draft general comment on article 7 of the Covenant as a whole, as amended, was adopted.

The meeting rose at 6 p.m.